REMARKS

Reconsideration of this application is now being requested. Claims 1-2 and 4-6 are now in this application.

Claims 1-2, 4-6 were rejected under 35 U.S.C. §102(b) as being anticipated by Gilhousen WO 95/03652 A. Applicants respectfully traverses.

It is respectfully submitted that the Examiner is reading Gilhousen incorrectly.

On Gilhousen page 16 lines 21 to 32 it states (emphasis added for ease of reference):

> "In the preferred embodiment, a cell controller monitors existing Walsh code assignments in order to enable additional requests for channels codes to be efficiently accommodated. This monitoring could be effected by, for example, annotating a tabular list of the Walsh code sequences each time a code is assigned to a particular channel. **When it is desired to initiate an additional code assignment, a set of potentially assignable codes are identified by searching the list. This set of codes would include only those codes not recursively related by equation (1) to a currently assigned code. That is, the set would include only those codes not capable of being derived from an assigned code, and the codes from which the assigned code is capable of being derived**". (emphasis added)

This is a clear teaching that only one member of a set of recursively related codes can be assigned at a time.

The present invention is in direct contrast to Gilhousen as it requires "the selected node for a user must not coincide with a node reserved by another user only if the user and the other user are operational at the same time".

This teaches away from Gilhousen as it allows, say, two related codes to both be assigned at one time.

This difference is a significant and technically advantageous difference. In particular, the invention addresses the problem of a shortage of codes preventing a user

making a call connection by taking advantage of the practical reality that users do not operate using their maximum data rates at all times.

The Examiner refers to page 17 lines 1 to 17 as teaching that "The busy list holds codes, which can be simultaneously assigned". This analysis appears incorrect. Page 17 line 1 to 17 states (emphasis added for ease of reference):

> "In a particular implementation the cell controller would maintain an ASSIGNED list of the set of codes already assigned to particular user channels, and would further include a separate "BUSY" list having an entry for each possible Walsh code. When a request for a channel code is made, the controller would first reset, i.e. clear, the BUSY list. **Each of the entries in the BUSY list corresponding to codes currently included in the ASSIGNED list would then be marked as being busy. In addition, all entries within the BUSY list corresponding to codes recursively related to those indicated as being busy would also be marked as busy**. Upon identification of a code of suitable length, the controller would assign the identified code to the requesting channel. At the conclusion of channel communication the assigned code is deleted from the ASSIGNED list." (emphasis added)

From this teaching it appears that:

(1) the busy list has an entry for every possible code

(2) in the busy list all assigned codes are recorded as "busy",

(3) all entries for codes recursively related to the codes referred to in (2) above are recorded as "busy"

(4) a code is selected for assignment from one of the codes not already recorded as 'busy'.

Accordingly, this does not teach nor suggest the present invention in which "the selected node for a user must not coincide with a node reserved by another user only if the user and the other user are operational at the same time".

The Examiner referred also to Gilhousen page 15 lines 37 to 45. This passage states (emphasis added for ease of reference):

> "If orthogonality is to be maintained between a set of user channels assigned Walsh codes from Table 1, **then codes associated with branch-connected nodes in the**

Walsh tree representation of FIG.2 may not be simultaneously utilized. That is, neither longer code sequences recursively derived from a given code in accordance with equation (1), nor shorter code sequences from which the given code was recursively derived, may be assigned to other communication channels when the given code is in use. In an exemplary embodiment, Walsh sequence codes of the longest available length (i.e., 16 chips in a system utilizing the coding scheme of." (emphasis added)

The Examiner claims this teaches that "**simultaneous node assignment is indeed allowed** except where the codes are simultaneously utilized" (emphasis added); however this assertion seems unsupported. Also, the skilled reader wondering what was meant by "simultaneously utilized" would read on to Gilhousen page 16 lines 21 to 32 discussed above in order to find an answer. He would learn from that teaching that according to Gilhousen only one member of a set of recursively related codes can be assigned at the same time.

Dependent claims 2, and 4 to 6 are patentable not least on the basis that they each depend on an allowable amended claim 1.

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicant's undersigned attorney at 973 386 6377.

Respectfully submitted,

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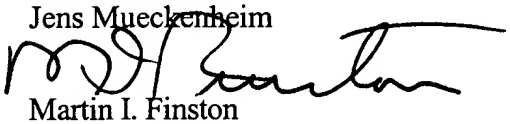

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